(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 1682 .....OF 2003

PETITIONER

Parmanand, son of Shri Bhuwan Verma, aged about 30 years, (Ex. Sarpanch), Gram Panchayat Surajpura (Van), Block Development – Sa / Lohara, Tah and Distt. Kabirdham (old Kawardha), Chhattisgarh.

VERSUS

RESPONDENTS

1. The State of Chhattisgarh, through : Collector, Distt. Kabirdham (old Kawardha), Chhattisgarh.

2. Sunderlal Sahu, son of Shri Thaanwar Sahu, Up-sarpanch, Gram Panchayat Surajpura (Van), Block Development Sa / Lohara, Tah. And Distt. Kabirdham, Chhattisgarh.

P. A. No. 1529/03
Presented by Shri Sameer Sahu
dated 23.05.03

WRIT PETITION UNDER ARTICLES 227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No-1682/03

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DB: Hon'ble Justice K. H. N. Kuranga, C.J.
& Hon'ble Justice L. C. Bhadoo, J.
15/10/2003

Petitioner by Shri Ashok Das Vaishnav, Advocate.

Respondent No. 1 by Shri Sunil Sinha, Additional Advocate General.

By this writ petition under Articles 226/227 of the Constitution of India the petitioner has challenged the constitutional validity and the vires of Section 36 (1)(m) of the Chhattisgarh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (for short 'the Adhiniyam) which lays down that no person shall be eligible to be an office-bearer of the Panchayat who has more than two living children one of whom is born on or after 26th day of January, 2001. The challenge to the above clause does not survive in view of the law laid down by the Hon'ble Apex Court in the case of **Javed and others Vs. State of Haryana and others reported in 2003 AIR SCW 3892** and also in view of the order passed by this Court in the case of **Yashwant Kumar Sahu Vs. State of Chhattisgarh and another passed in Writ Petition No. 463 of 2002.** on 12.09.03

[पीछे देखिये

XI-HC-22

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The petitioner has also challenged the order of removal passed by the Collector, Kabirdham dated 19th May 2003. The petitioner has efficacious alternative remedy to file an appeal before the Director of Panchayat on the factual grounds against the order passed by the Collector.

In view of the above there is no force in the petition of the petitioner, the same is liable to be dismissed and it is dismissed. However, the petitioner shall be at liberty to file appeal before the Director of Panchayat against the order dated 19th May, 2003 by which he has been declared disqualified to continue as office bearer of the Village Panchayat Surajpura (Jangal), Block- Lohara, Tehsil- Kawardha, District-Kabirdham. The petitioner will be entitled to the benefit of the limitation for the time spent by him in litigating before this Court in this writ proceeding.

The parties are entitled for certified copy of this order.

Sd/-
Chief Justice

Sd/-
L.C.BHADOO
Judge

[पीछे देखिये